

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE ex rel. THE KANASAS CITY SYMPHONY,

Appellant,

v.

THE STATE OF MISSOURI, et al.,

Respondents.

DOCKET NUMBER WD70382

Date: February 23, 2010

Appeal from:
Cole County Circuit Court
The Honorable Richard G. Callahan, Judge

Appellate Judges:
Division One: Lisa White Hardwick, Presiding Judge, Thomas H. Newton, Chief
Judge, and Alok Ahuja, Judge

Attorneys:
Richard W. Miller, Esq., Kansas City, MO, for appellant.
Robert L. Presson, Esq., Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

STATE ex rel. THE KANASAS CITY SYMPHONY

Appellant,

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Cole County

Before Division One Judges: Lisa White Hardwick, Presiding Judge, Thomas H. Newton, Chief Judge, and Alok Ahuja, Judge

The Kansas City Symphony appeals from a judgment denying its claims against the State of Missouri and the Missouri Legislature. The Symphony contends the circuit court erred in refusing to order the defendants to transfer monies from the general revenue fund to the Missouri Arts Council Trust Fund, pursuant to Section 143.183.5, RSMo Cum. Supp. 2009.

AFFIRMED.

Division One holds: The circuit court properly denied the Symphony's claims because they were barred by the doctrine of sovereign immunity and because the transfer of funds would have violated the constitutional requirement for appropriation of funds. The judgment of the circuit court is affirmed.

Opinion by: Lisa White Hardwick, Judge

February 23, 2010

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